IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 1089 of 2006.

Date of Decision: 8th March, 2007.

Pran Nath Gupta .. **Petitioner.**

Versus

State of Himachal Pradesh & Others. .. **Respondents.**

Coram

The Hon'ble Mr. Justice V.K. Gupta, C.J.

The Hon'ble Mr. Justice Sanjay Karol, J.

Whether approved for reporting?[1]

For the petitioner: **M/s. Bimal Gupta, Harmeet Singh and Karan Singh Kanwar, Advocates**

For the respondents: **Mr. M.S. Chandel, Advocate General with Mr. J.K. Verma, Deputy Advocate General.**

V.K. Gupta, CJ (Oral)

After hearing learned Counsel for the parties and with their agreement and consent this petition is being disposed of at the motion hearing stage without formally admitting it to hearing and the following agreed order is passed.

Reference is invited to para 19 of the writ petition wherein the petitioner has averred as under:-

> **"…. The petitioner humbly submits that the petitioner cannot furnish the treasury receipts on account of the tax deducted u/s 12-A of the GST Act as the tax was never deposited by him but was deposited by the Contractee i.e. AME(I/D). The respondents instead of looking to the record of the Contractee who is under obligation to file periodic returns and is liable for penal action for not fulfilling any of the obligations with regards to deduction or deposition of tax deducted is making unjustifiable demand from the**

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[1] Whether the reporters of Local Papers may be allowed to see the judgment?

petitioner apparently with the sole motive of withholding the refund due to the petitioner."

Apparently the petitioner's contention seems to be well placed because if the tax at source was deducted by the MES Authorities and they deposited the tax amount with the respondents, the petitioner is not supposed to be in possession of the receipts which have been demanded by the respondents in their communication No. K.A. N./S.T.A/Refund-2590 dated 18.3.2006 (Annexure P-8 to the writ petition). Accordingly while disposing of this petition, we direct respondent No.3 personally to go through the entire case and if he is satisfied with reference to the official record that indeed the amount of Rs.1,14,163/- is due to the petitioner, this shall be paid to the petitioner within a period of six seeks from today, without insisting upon the requirement of the petitioner producing the receipts as has been demanded in the aforesaid communication dated 18th March, 2006. If, however, respondent No.3 feels otherwise or comes to a different conclusion, he is at liberty to reject the petitioner's claim, but in that event he has to pass a reasoned and speaking order, duly supported by facts and figures.

CMPs No.1721 and 1722 of 2006.

Dismissed as infructuous.

(V.K. Gupta), CJ

March 8, 2007 **(Sanjay Karol), J.**
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